

#16

Atty. Docket No. 2083-2A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

In re Application of

NOV 12 1985

David F. Mark et al.

Before the Examiner

Serial No. 655,897

B. Hazel

Filed: September 28, 1984

GROUP ART UNIT: 127

For: CYSTEINE-DEPLETED MUTEINS
OF BIOLOGICALLY ACTIVE PROTEINS

GROUP 120

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NOV 12 1985

Transmittal of Rule 9.1 of the Budapest Treaty

GROUP 120

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

Upon the Examiner's request, Applicants are submitting the attached photocopy of Rule 9 from the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (Budapest Treaty).

Rule 9.1 was mentioned in the Amendment filed October 18, 1985 at page 11 (second paragraph). Said rule entitled "Duration of Storage" states that microorganism deposits at "an international depository authority shall be stored ... for a period of at least five years after the most recent request for the furnishing of a sample of the deposited microorganism ... and, in any case, for a period of at least 30 years after the date of deposit."

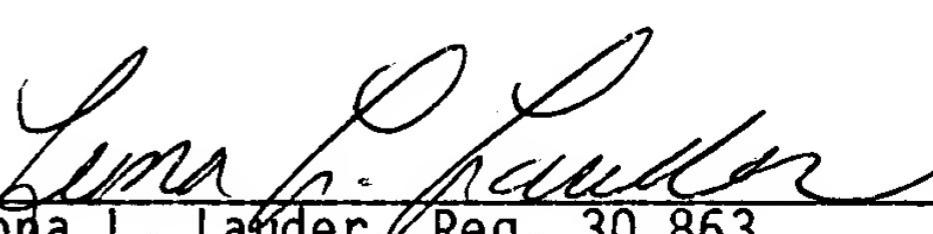
Enclosures 6(A) and 6(B) filed with said Amendment evidence that the microorganism deposits made in conjunction with the above-referenced application were in conformance with the Budapest Treaty.

Respectfully submitted,
David F. Mark et al., Applicants

November 6, 1985

CETUS CORPORATION
1400 Fifty-Third Street
Emeryville, California 94608
(415) 420-3217

By


Leona L. Lauder, Reg. 30,863
Attorney for Applicants

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United States
Department of
Agriculture

Agricultural
Research
Service

North Central Region
Northern Regional
Research Center

1815 North University Street
Peoria, Illinois
61604

● Enclosure 6 (4)

March 30, 1983

Dr. Angela Belt
Cetus Corporation
600 Bancroft Way
Berkeley, California 46710

Dear Dr. Belt:

Enclosed is the International Receipt form BP/4 for deposits made in connection with the Budapest Treaty. The subject strain is:

<u>Name</u>	<u>Strain Designation</u>	<u>NRRL number</u>
<u>Escherichia coli</u> PSY 2501	CNCC #1533	B-15356

Sincerely,

A. J. LYONS, Curator
ARS Patent Collection
Culture Collection Research
Fermentation Laboratory

Enclosure

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BUDAPEST TREATY ON THE INTERNATIONAL
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS
FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

TO
Dr. Angela Belt
Cetus Corporation
600 Bancroft Way
Berkeley, CA 94710

VIABILITY STATEMENT

issued pursuant to Rule 10.2 by the
INTERNATIONAL DEPOSITORY AUTHORITY
identified on the following page

NAME AND ADDRESS OF THE PARTY
TO WHOM THE VIABILITY STATEMENT
IS ISSUED

I. DEPOSITOR	II. IDENTIFICATION OF THE MICROORGANISM
Name: Ms. Angela Belt Address: Cetus Corporation 600 Bancroft Way Berkeley, CA 94710	Depositor's taxonomic designation and accession number given by the INTERNATIONAL DEPOSITORY AUTHORITY: <u>Escherichia coli</u> NRRL B-15356 Date of: <u>March 30, 1983</u> 1 <input checked="" type="checkbox"/> ² Original Deposit <input type="checkbox"/> ² New Deposit <input type="checkbox"/> ² Transfer
III. VIABILITY STATEMENT AND DEPOSITOR'S EQUIVALENCY DECLARATION	
Deposit was found: <input checked="" type="checkbox"/> ² Viable <input type="checkbox"/> ² Nonviable on <u>March 4, 1983</u> (Date) International Depository Authority's preparation was found viable on <u>March 7, 1983</u> (Date) Depositor determined the International Depository Authority's preparation was <input checked="" type="checkbox"/> ² Equivalent <input type="checkbox"/> ^{2,3} Not Equivalent to deposit on <u>6/21/83</u> (Date)	

Signature of Depositor Angela Belt

- ¹ Indicate the date of the original deposit or when a new deposit or a transfer has been made.
- ² Mark with a cross the applicable box.
- ³ If found nonequivalent, depositor must supply 30 lyophilized preparations made to NRRL size specifications.

IV. CONDITIONS UNDER WHICH THE VIABILITY TEST WAS PERFORMED ⁴	

V. INTERNATIONAL DEPOSITORY AUTHORITY	
Name: Agricultural Research Culture Collection (NRRL) International Depository Authority	Signature(s) of person(s) having the power to represent the International Depository Authority or of authorized official(s): <i>Allister Zgusta</i>
Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Date: <u>April 14, 1983</u>

⁴Fill in if the information has been requested and if the results of the test were negative.

Mr. A.J. Lyons
Agricultural Research Culture Collection
1815 N. University Street
Peoria, Illinois 61604

June 21, 1983

Dear Mr. Lyons;

Enclosed is the equivalency declaration of another of the strains that we deposited with you. I also wish to inform you that our mailing address has changed. Our main headquarters is no longer located in Berkeley. Correspondance should be addressed to us at 1400 Fifty-Third Street, Emeryville, California 94608. Also, my new phone number is (415) 420-3300.

Sincerely,

CETUS CORPORATION

Angela Belt
Curator-Culture Collection



United States
Department of
Agriculture

Agricultural
Research
Service

North Central Region
Northern Regional
Research Center

1815 North University Street
Peoria, Illinois
61604

April 14, 1983

Dr. Angela Belt
Cetus Corporation
600 Bancroft Way
Berkeley, California 94710

Dear Dr. Belt:

Enclosed is the viability statement form for:

NRRL B-15356 Escherichia coli PSY2501 (CMCC #1533)

I will send under separate cover our lyophilized preparation for this strain. As soon as you confirm the equivalency of this preparation to your original deposit; complete, sign, and return the original viability statement to me.

Sincerely,

A. J. LYONS, Curator
ARS Patent Collection
Culture Collection Research
Fermentation Laboratory

Enclosure

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Mr. A. J. Lyons
Agricultural Research Culture Collection
1815 N. University Street
Peoria, Illinois 61604

May 10, 1983

Dear Mr. Lyons;

Please send us an additional lyophil of NRRL B-15356,
CMCC#1533 Escherichia coli pSY 2501 so that we can complete
equivalecy testing of this strain. Thanking you in advance.

Sincerely,

CETUS CORPORATION

Angela Belt
Curator-Culture Collection

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Cetus Corporation, 600 Bancroft Way, Berkeley, California 94710 Phone: (415) 549-3300

BUDAPEST TREATY ON THE INTERNATIONAL
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS
FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

TO
Angela Belt
Cetus Corporation
600 Bancroft Way
Berkeley, CA 46710

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT
issued pursuant to Rule 7.1 by the
INTERNATIONAL DEPOSITORY AUTHORITY
identified at the bottom of this page

NAME AND ADDRESS
OF DEPOSITOR

I. IDENTIFICATION OF THE MICROORGANISM

Identification reference given by the
DEPOSITOR:

CMCC# 1533 Escherichia coli
PSY 2501

Accession number given by the
INTERNATIONAL DEPOSITORY AUTHORITY:

NRRL B-15356

II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION

The microorganism identified under I above was accompanied by:

a scientific description

a proposed taxonomic designation

(Mark with a cross where applicable)

III. RECEIPT AND ACCEPTANCE

This International Depository Authority accepts the microorganism identified under I above,
which was received by it on March 30, 83 (date of the original deposit)¹

IV. INTERNATIONAL DEPOSITORY AUTHORITY

Name: Agricultural Research Culture
Collection (NRRL)
International Depository Authority
Address: 1815 N. University Street
Peoria, Illinois 61604 U.S.A.

Signature(s) of person(s) having the power
to represent the International Depository
Authority or of authorized official(s):

Date: *Allister Lyons*
March 30, 1983

¹ Where Rule 6.4(d) applies, such date is the date on which the status of international depositary authority was acquired; where a deposit made outside the Budapest Treaty after the acquisition of the status of international depositary authority is converted into a deposit under the Budapest Treaty, such date is the date on which the microorganism was received by the international depositary authority.



AMERICAN TYPE CULTURE COLLECTION

12301 Parklawn Drive, Rockville, Maryland 20852, U.S.A.

BUDAPEST TREATY ON THE INTERNATIONAL
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS
FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

TO: Cetus Corporation
 ADDRESS: 1400 - 53rd Street
Emeryville, California 94608
Attention: Angela Belt

DEPOSITOR: _____
 ADDRESS: _____

Identification of the Microorganism(s)ATCC Accession Designation(s)

* Escherichia coli mm294-1, cmcc#1872
Escherichia coli pLW55 (mm294-1), cmcc#1865
Escherichia coli psy2501 (mm294-1), cmcc# 1494

39515
39516
39517

Date of the Deposit or of the Transfer*

November 18, 1983

The viability of the microorganism(s) identified above was tested on December 1, 1983.
 On that date, the said microorganism(s) was(were):

XX viable no longer viable

CONDITIONS UNDER WHICH THE VIABILITY TEST HAS BEEN PERFORMED (complete only if test was negative):

INTERNATIONAL DEPOSITORY AUTHORITY:

American Type Culture Collection
 12301 Parklawn Drive
 Rockville, Maryland 20852, U.S.A.

Signature of person having the power to represent the ATCC:

Bobbie A. Brandon
 (Mrs.) Bobbie A. Brandon, Head
 Professional Services Department

Date: December 2, 1983

*In cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability test.

Form BP/9 (one page only)



AMERICAN TYPE CULTURE COLLECTION
12301 Parklawn Drive, Rockville, Maryland 20852, U.S.A.

BUDAPEST TREATY ON THE INTERNATIONAL
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS
FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

TO: Cetus Corporation
1400 - 53rd Street
Emeryville, California 94608
Attention: Angela Belt

RECEIPT IN THE CASE OF AN
ORIGINAL DEPOSIT issued
pursuant to Rule 7.3 by the
INTERNATIONAL DEPOSITORY AUTHORITY

Name and Address of Depositor
or His/Her Attorney

Identification reference given by the
DEPOSITOR:

Accession number given by the ATCC:

<u>Escherichia coli</u> mm294-1, cmcc#1872	39515
<u>Escherichia coli</u> pLW55 (mm294-1), cmcc#1865	39516
<u>Escherichia coli</u> psy2501 (mm294-1), cmcc# 1494	39517

The microorganism(s) identified above was(were) accompanied by:

a scientific description

a proposed taxonomic designation: _____

The microorganism(s) identified above was(were) received on November 18, 1983
by this International Depository Authority and has been accepted.

Name of International Depository Authority

American Type Culture Collection

Signature of person having the power
to represent the American Type
Culture Collection.

Bobbie N. Brandon

(Mrs.) Bobbie A. Brandon

Date: December 2, 1983



AMERICAN TYPE CULTURE COLLECTION

12301 Parklawn Drive
Rockville, Maryland 20852 U.S.A.
Tel.: 301-881-2600 Telex: 908-768

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE
DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

- *1. Name of microorganism or culture Escherichia coli psy2501 (mm294-1)
2. Strain designation given by the depositor (number, symbols, etc.)
cmcc# 1494; psy2501 (mm294-1) 3951
3. Is this strain being deposited under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure? YES
Name and Address of Depositor CETUS CORPORATION
1400 53rd STREET
EMERYVILLE, CALIFORNIA 94608
4. Is this deposit a mixture of microorganisms? NO
5. Details and conditions necessary for the cultivation of the strain for its storage and for testing its viability and also, where a mixture of microorganisms is deposited, descriptions of the components of the mixture and at least one of the methods permitting the checking of their presence. Grow at 35C in 2% Luria Broth w/1% NaCl,
thiamine, and without glucose. Include 50ug/ml Ampicillin in medium
(recipe attached)
6. An indication of the properties of the strain which are or may be dangerous to health or the environment, or an indication that the depositor is not aware of such properties.
unaware of hazards
- *7. It is recommended that sufficient description be provided to allow the ATCC to confirm that the strain deposited generally conforms to that which the depositor states is being deposited (i.e., gram negative rod).
gram negative rod
- *8. Is this strain zoopathogenic? no phytopathogenic? no

*The answers to these questions are recommended but not required.

FOR ATCC USE ONLY

ATCC NO. _____

DATE CULTURE RECEIVED _____

DATE VIABILITY TEST COMPLETED _____

*9. Does this strain contain plasmids relevant to the patent process? yes
If so, what physical containment level is required for experiments as described in the
1980 National Institutes of Health Guidelines involving Recombinant DNA Molecules
(i.e., P1, P2, P3 and P4 facility)? _____
P1

*10. Isolated from? _____

11. Do you wish the strain made available to:

a. Those entitled to a sample under the Budapest Treaty? YES

b. Those entitled to a sample under the European Patent Convention? YES

c. Anyone who requests a culture? NO

d. Other (please state) NONE

12. Do you wish the ATCC to inform you of all requests for this strain? (This is allowed
under the Treaty, but if you waive the right, the fee is reduced.) YES

13. Viability testing certificate and contracts should be directed to (if different from
that given under Item 3) ANGELA BELT

CETUS CORPORATION, 1400-53rd STREET, EMERYVILLE, CALIFORNIA 94608

14. Check in payment of service must accompany the deposit unless prior arrangements are
made and approved. If arrangements have been made to bill you for services an invoice
should be sent to: _____

please send invoice to Angela Belt at address given above May bill
to purchase order number: 72310

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15. Additional Comments: _____

Include ampicillin in medium to retain plasmid (50ug/ml)

I understand and agree that the deposit may not be withdrawn by me for the period
specified in Rule 9.1 of the Budapest Treaty (at least 30 years after the date of
deposit).

DATE November 16, 1983 SIGNATURE OF DEPOSITOR Angela Belt

CETUS CORPORATION

On behalf of (Name of company or institution
if signed on their behalf)

ANGELA BELT

(Typed name of Depositor)

THIS FORM MUST BE COMPLETED IN ENGLISH

ADDRESS SHIPMENTS AND FORM TO THE ATTENTION OF: Mrs. Bobbie A. Brandon
American Type Culture Collection
12301 Parklawn Drive
Rockville, Maryland 20852, U.S.A.

*The answers to these questions are recommended but not required.